

By: Ashby

H.B. No. 3107

A BILL TO BE ENTITLED

AN ACT

relating to the production of public information under the public information law.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 552.221, Government Code, is amended by adding Subsection (e) to read as follows:

(e) A request is considered to have been withdrawn if the requestor fails to inspect or duplicate the public information in the offices of the governmental body on or before the 60th day after the date the information is made available or fails to pay the postage and any other applicable charges accrued under Subchapter F on or before the 60th day after the date the requestor is informed of the charges.

SECTION 2. Section 552.261, Government Code, is amended by adding Subsection (e) to read as follows:

(e) Except as otherwise provided by this subsection, all requests received in one calendar day from an individual may be treated as a single request for purposes of calculating costs under this chapter. A governmental body may not combine multiple requests under this subsection from separate individuals who submit requests on behalf of an organization.

SECTION 3. Section 552.275, Government Code, is amended by amending Subsections (a), (b), (d), (e), (g), (h), and (j) and adding Subsections (a-1), (e-1), and (m) to read as follows:

1 (a) A governmental body may establish ~~[a]~~ reasonable  
2 monthly and yearly limits ~~[limit]~~ on the amount of time that  
3 personnel of the governmental body are required to spend producing  
4 public information for inspection or duplication by a requestor, or  
5 providing copies of public information to a requestor, without  
6 recovering its costs attributable to that personnel time.

7 (a-1) For purposes of this section, all county officials who  
8 have designated the same officer for public information may  
9 calculate the amount of time that personnel are required to spend  
10 collectively for purposes of the monthly or yearly limit.

11 (b) A yearly time limit established under Subsection (a) may  
12 not be less than 36 hours for a requestor during the 12-month period  
13 that corresponds to the fiscal year of the governmental body. A  
14 monthly time limit established under Subsection (a) may not be less  
15 than 15 hours for a requestor for a one-month period.

16 (d) If a governmental body establishes a time limit under  
17 Subsection (a), each time the governmental body complies with a  
18 request for public information, the governmental body shall provide  
19 the requestor with a written statement of the amount of personnel  
20 time spent complying with that request and the cumulative amount of  
21 time spent complying with requests for public information from that  
22 requestor during the applicable monthly or yearly ~~[12-month]~~  
23 period. The amount of time spent preparing the written statement  
24 may not be included in the amount of time included in the statement  
25 provided to the requestor under this subsection.

26 (e) Subject to Subsection (e-1), if ~~[if]~~ in connection with  
27 a request for public information, the cumulative amount of

1 personnel time spent complying with requests for public information  
2 from the same requestor equals or exceeds the limit established by  
3 the governmental body under Subsection (a), the governmental body  
4 shall provide the requestor with a written estimate of the total  
5 cost, including materials, personnel time, and overhead expenses,  
6 necessary to comply with the request. The written estimate must be  
7 provided to the requestor on or before the 10th day after the date  
8 on which the public information was requested. The amount of this  
9 charge relating to the cost of locating, compiling, and producing  
10 the public information shall be established by rules prescribed by  
11 the attorney general under Sections 552.262(a) and (b).

12 (e-1) This subsection applies only to a request made by a  
13 requestor who has made a previous request to a governmental body  
14 that has not been withdrawn, for which the governmental body has  
15 located and compiled documents in response, and for which the  
16 governmental body has issued a statement under Subsection (e) that  
17 remains unpaid on the date the requestor submits the new request. A  
18 governmental body is not required to locate, compile, produce, or  
19 provide copies of documents or prepare a statement under Subsection  
20 (e) in response to a new request described by this subsection until  
21 the date the requestor pays each unpaid statement issued under  
22 Subsection (e) in connection with a previous request or withdraws  
23 the previous request to which the statement applies.

24 (g) If a governmental body provides a requestor with the  
25 written statement under Subsection (e) and the time limits  
26 prescribed by Subsection (a) regarding the requestor have been  
27 exceeded, the governmental body is not required to produce public

1 information for inspection or duplication or to provide copies of  
2 public information in response to the requestor's request unless on  
3 or before the 10th day after the date the governmental body provided  
4 the written statement under that subsection, the requestor submits  
5 ~~[a statement in writing to the governmental body in which the~~  
6 ~~requestor commits to pay the lesser of:~~

7 ~~[(1) the actual costs incurred in complying with the~~  
8 ~~requestor's request, including the cost of materials and personnel~~  
9 ~~time and overhead; or~~

10 ~~[(2)]~~ payment of the amount stated in the written  
11 statement provided under Subsection (e).

12 (h) If the requestor fails or refuses to submit payment ~~[the~~  
13 ~~written statement]~~ under Subsection (g), the requestor is  
14 considered to have withdrawn the requestor's pending request for  
15 public information.

16 (j) This section does not apply if the requestor is an  
17 individual who, for a substantial portion of the individual's  
18 livelihood or for substantial financial gain, gathers, compiles,  
19 prepares, collects, photographs, records, writes, edits, reports,  
20 investigates, processes, or publishes news or information for and  
21 is seeking the information for dissemination by a news medium or  
22 communication service provider, including:

23 (1) an individual who supervises or assists in  
24 gathering, preparing, and disseminating the news or information; or

25 (2) an individual who is or was a journalist, scholar,  
26 or researcher employed by an institution of higher education at the  
27 time the person made the request for information ~~[a radio or~~

~~television broadcast station that holds a broadcast license for an assigned frequency issued by the Federal Communications Commission,~~

~~[(2) a newspaper that is qualified under Section 2051.044 to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news,~~

~~[(3) a newspaper of general circulation that is published on the Internet by a news medium engaged in the business of disseminating news or information to the general public, or~~

~~[(4) a magazine that is published at least once a week or on the Internet by a news medium engaged in the business of disseminating news or information to the general public].~~

(m) In this section:

(1) "Communication service provider" has the meaning assigned by Section 22.021, Civil Practice and Remedies Code.

(2) "News medium" means a newspaper, magazine or periodical, a book publisher, a news agency, a wire service, an FCC-licensed radio or television station or a network of such stations, a cable, satellite, or other transmission system or carrier or channel, or a channel or programming service for a station, network, system, or carrier, or an audio or audiovisual production company or Internet company or provider, or the parent, subsidiary, division, or affiliate of that entity, that disseminates news or information to the public by any means, including:

1                    (A) print;  
2                    (B) television;  
3                    (C) radio;  
4                    (D) photographic;  
5                    (E) mechanical;  
6                    (F) electronic; and  
7                    (G) other means, known or unknown, that are  
8 accessible to the public.

9            SECTION 4. Section 552.3215(i), Government Code, is amended  
10 to read as follows:

11            (i) If the district or county attorney determines not to  
12 bring an action under this section, the complainant is entitled to  
13 file the complaint with the attorney general before the 31st day  
14 after the date the complaint is returned to the complainant. A  
15 complainant is entitled to file a complaint with the attorney  
16 general on or after the 90th day after the date the complainant  
17 files the complaint with a district or county attorney if the  
18 district or county attorney has not brought an action under this  
19 section. On receipt of the written complaint, the attorney general  
20 shall comply with each requirement in Subsections (g) and (h) in the  
21 time required by those subsections. If the attorney general  
22 decides to bring an action under this section against a  
23 governmental body located only in one county in response to the  
24 complaint, the attorney general must comply with Subsection (c).

25            SECTION 5. The changes in law made by this Act apply only to  
26 a request for information that is received by a governmental body or  
27 an officer for public information on or after the effective date of

1 this Act. A request for information that was received before the  
2 effective date of this Act is governed by the law in effect on the  
3 date the request was received, and the former law is continued in  
4 effect for that purpose.

5 SECTION 6. This Act takes effect September 1, 2017.